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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,412	05/15/2001	Marek K. Pakulski	49501.10USPT	8939

7590

03/27/2003

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EXAMINER

TUCKER, PHILIP C

ART UNIT

PAPER NUMBER

1712

9

DATE MAILED: 03/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

855412

Applicant(s)

PAKULSKI

Examiner

P. TUCKER

Group Art Unit

1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 1/3/03
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 27 and 32-56 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 27, 32-44, 46-53 and 56 is/are allowed.
- ☒ Claim(s) 45, 54, 55 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 54 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by Burns (4690219).

Burns teaches a fracturing fluid for fracture acidizing operations, which comprises an acid, an N-vinyl lactam copolymer, brine which may comprise KCl, and which may have a pH within the scope of the present invention (see claims and column 6, lines 10-14). The N-vinyl lactam polymer would act as a gas hydrate controller, and is added at levels which are the same as the present invention (column 4, lines 35-41).

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3. Claims 54 is rejected under 35 U.S.C. 102(e) as being anticipated by Chang et al (6165947).

Chang teaches a fracturing fluid which is used in fracturing operations, which comprises a HEC or guar crosslinked polymer, and comprises a clay stabilizer such as KCl, and methanol at a level of about 2% (see examples and claims). The methanol would act as a gas hydrate controller. The use of the methanol for a different reason than taught in the prior art is not a patentable difference (In re Lintner 173 USPQ 356, In re Mod 161 USPQ 281).

4. Claim 45 is rejected under 35 U.S.C. 102(b) as being anticipated by Harris (5827804).

Harris teaches a fracturing fluid which comprises water, a water soluble polymer, a crosslinking agent such as boric acid or borates, and ethylene glycol ( see example 2). Ethylene glycol is a gas hydrate controller.

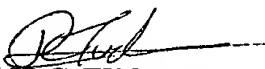
5. Claims 27, 32-44, 46-53 and 56 are allowable over the art of record.

6. Applicants amendment has been noted, and is persuasive with respect to the claims, except 45, 54 and 55 as noted above, which are not distinguished from the prior art. A new rejection over Harris is presented.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tucker whose telephone number is (703) 308-0529. The examiner's normal working hours are 7:30am-4:00pm, Monday-Friday. If necessary SPE Robert Dawson may be contacted at 703-308-2340. For inquiries of a general nature call the receptionist at 703-308-0651. The group FAX no. is 703-872-9310. The **after final** fax no. Is 703-872-9311.

PCT-2758  
March 20, 2003

  
**PHILIP C. TUCKER**  
**ART UNIT 1712**